

OPERAHS.COV
COVENANTS DISC

EASEMENT DEED - HISTORIC PLACE
015211

THIS CONVEYANCE is made this 14th day of July, 1989 by and between the City of Waterville, a non-profit organization having its location in Waterville, Kennebec County, Maine, hereinafter sometimes called the Grantor, and the State of Maine through the Director of the Maine Historic Preservation Commission, hereinafter sometimes called the Grantee.

WITNESSETH

WHEREAS THE Grantor is owner of certain premises known as the Waterville Opera House, Kennebec County, Maine, which premises have been listed in or nominated to the National Register of Historic Places under the National Historic Preservation Act of 1966 (P.L. 89-665, 16 U.S.C. 470a, et seq); and

WHEREAS THE State of Maine through the Director of the Maine Historic Preservation Commission is presently responsible for precluding any activity or omission at the premises which would destroy or impair its value to the public as an historic place; and

WHEREAS THE Grantor is willing to grant to the State of Maine the easement as hereinafter expressed for the purpose of insuring that the value of the premises for such purposes will not be destroyed or impaired;

NOW THEREFORE, in consideration of the sum of One Dollar and other valuable consideration paid to the Grantor, the receipt whereof is hereby acknowledged, the Grantor does hereby give, grant, bargain, sell and convey, with covenant of warranty, into the State of Maine an easement in the following described lots or parcel of land, with the buildings and improvements thereon (the real property together with the buildings and improvements thereon and the fixtures attached thereto and the appurtenances thereof, being hereinafter collectively referred to as the "Property") located in Waterville, Kennebec County, Maine and described in the Kennebec County Registry of Deeds, Book 10, Page 574.

The easement herein granted shall be of the nature and character hereinafter expressed and shall be a covenant running with the land, binding upon Grantor; its successors and assigns.

The Property is comprised of grounds, collateral, or appurtenant improvements and the Waterville Opera House. The Waterville Opera House is more particularly described as follows:

The Waterville Opera House is a large three story rectangular building with a flat roof. The foundation and basement story are of stone, while the main structure is brick with wood and stone trim.

The facade or south wall of the Opera House is composed of nine bays with a projection of the central three. The central projection of the rough stone basement story contains a recessed

entrance staircase flanked on either side by a window. The two sections flanking the central projection each have three windows.

The first story of the central projection is made up of a recessed arched doorway flanked on either side by an arched window with a stone sill. Both the doorway and windows are surrounded by rusticated brickwork. The two sections flanking the central projection each contain three windows which have stone sills and are surrounded by rusticated horizontal brickwork. A stone stringcourse is located between the first and second stories.

The second story of the central projection displays three large arched windows which are enframed by two stone Doric columns and two brick pilasters with stone bases and recessed brick panels. Flanking the central projection at this level are two pairs of three windows with stone sills and lintels as well as decorative stone arches above them. A projecting brick pilaster with a stone base appears at either side of the facade.

Another stone stringcourse separates the second story from the half story containing three small rectangular windows which are flanked on either side by three circular windows. The design of the facade is completed by an elaborate wooden cornice composed of a dentil molding, a series of modillions and an ornamental crest at the center bearing the inscription "City Hall".

While the entrance to city offices is located on the facade, access to the theater is gained from the west side. The rough stone ground story of the west wall is largely covered by a granite staircase with an iron railing. The remaining two-and-a-half stories exhibit a five bay composition with a projection of the central three. The three central bays of the first story each contain an arched doorway surrounded by rusticated brickwork. These doorways are flanked on either side by a window surrounded by rusticated horizontal brickwork. A stone string-course divides the first and second stories.

The interior of the Waterville Opera House is comprised of two major sections. The ground and first floors serve as the offices for local city government. Original oak woodwork, including wainscot architrave moldings and doors survive throughout these spaces. The remaining story-and-a-half houses the community's opera house. A grand staircase, with original oak railings, leads to the auditorium, whose balcony and proscenium arch are ornamented with elaborate Baroque plaster work.

The foregoing description of the Waterville Opera House may be amended, replaced, or elaborated upon in more detail, and a description of the style, landscaping and similar particulars of the grounds, and any collateral or appurtenant improvements on the Property may be added, by an instrument in writing, signed by both parties hereto, making reference to this Easement Deed and filed of record in the Kennebec County Registry of Deeds. If and when such an instrument is placed of record, it shall be deemed to be part of this Easement Deed as if set out herein.

For the purpose of preserving, protecting, maintaining the Property, including its significance and value to the public as an historic place, the Grantor does hereby covenant and agree, on behalf of itself, its successors and assigns with the Grantee, its successors and assigns, as follows:

1. The owner agrees to assume the cost of continued maintenance and repair of the property, in accordance with the approved Maintenance Management Plan, so as to preserve the architectural, historical, or archaeological integrity of the property for five (5) years in order to protect and enhance those qualities that made the property eligible for listing in the National Register of Historic Places. Nothing in this agreement shall prohibit the subgrantee from seeking financial assistance from any source available to him.
2. No signs shall be erected and no activity shall be conducted on the Property which would destroy or diminish its historic, cultural, or aesthetic value, and all things shall be done which are reasonably necessary to insure that the Property continues to qualify as an historic place under the National Historic Preservation Act of 1966.
3. The grounds and landscaping of the Property shall be maintained in a healthy condition and in a manner exemplifying the period and style of the Waterville Opera House.
4. No alterations to the Property (including particularly, but not limited to, the Waterville Opera House as described herein) shall be undertaken, commenced, or performed without the prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission.
5. Utility entrances needed from time to time shall be installed in a manner which will not impair the aesthetics of the Property.
6. Grantee, its agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the terms and conditions of this Easement Deed are being complied with.
7. As state assistance has been employed for restoration and repair of the Waterville Opera House, the Grantor agrees to allow public access not only to the grounds of the Property, but to the interior of the Waterville Opera House for a minimum of eight (8) weeks per year. Public access may vary as to hours and days per week in accordance with seasonal demand provided, however, (i) that the grounds and the interior shall be open to the public for a sufficient amount of time and with a degree of frequency to afford reasonably convenient access by members of the public desiring to see it and (ii) cultural institutions and similar groups shall have access at any reasonable time, regardless of the season, subject only to the advance negotiation of adequate remuneration for attendants necessary to accompany such groups. Fees for admittance may be levied by the Grantor provided that the amount of such fees are reasonable and are commensurate with and comparable to the fees charged in Maine at the time for access to other historic or cultural buildings.

8. If the Grantor fails to observe or if the Grantor violates any covenant, agreement, or provision contained herein, then the Grantee shall in addition to all other remedies available at law or in equity, have the right to enforce this Easement Deed, including each of its provisions, by specific performance.
9. The covenant and agreements set forth herein shall be binding upon and shall inure to the benefit of the Grantor and the Grantee and their respective successors and assigns. TO HAVE AND TO HOLD the aforegranted and bargained Easement with all the privileges and appurtenances thereof to the said State of Maine through the Director of the Maine Historic Preservation Commission, its successors and assigns, to its and their use and behoof for a period of five (5) years from and after the date hereof.
10. The Grantor hereby conveys a right of first refusal in the event the grantor wishes to sell the premises. This right of first refusal shall be exercised or declined in the following manner:
 - a. When the Grantor has entered into a bona fide purchase and sale agreement with a purchaser, he shall promptly mail or deliver a copy thereof (attested as a true copy by a notary public) to the Grantee in the manner set forth in paragraph f below. The copy shall be accompanied by a letter of transmittal offering to transfer the property to the Grantee upon the same terms as those contained in the copy.
 - b. The Grantee shall have thirty (30) days after the receipt of the copy to either decline the offer or to exercise the right. If the thirtieth day should fall upon a day on which the principal office of the Grantee is not open for business, such thirtieth day shall be deemed to be the first day thereafter that such office is so open.
 - c. If the grantee declines to exercise the right, the grantee shall promptly mail or deliver to the Grantor a dated and acknowledged statement in form suitable for recording at the appropriate registry of deeds or Land Court registry district indicating such declination and indicating the sales price that was contained in the purchase and sales agreement.
 - d. After the recording of such declination, the Grantor may within a year of the date of declination convey the premises for the same or a higher purchase price (as evidenced by the stated consideration in the deed) as that stated in the Grantee's declination.
 - e. If the Grantee elects to exercise the right, it shall notify the Grantor in writing on or before the thirtieth day (as defined in paragraph b hereof). The Grantee may record a notice of such election at its expense.

Thereafter, the Grantee shall purchase the premises upon the same terms as those contained in the copy of the purchase and sale agreement delivered pursuant to paragraph a hereof, except that the date for delivery of the deed shall be no sooner than sixty (60) days from the Grantor of the Grantee's notice of election. If such a sixtieth day should fall upon a day on which the Registry is not open for business, then the deed shall be delivered upon the first day thereafter that the Registry is so open.

- f. Notices hereunder shall be deemed duly delivered if delivered in hand or mailed in duplicate by registered or certified mail with a return receipt requested, to:

Maine Historic Preservation Commission
55 Capitol Street
Augusta, Maine 04333
Attention: Director

In any case of a change in the officer's title or functions, notices shall be mailed to the attention of the officer succeeding to the duties of the present officer above named. If the Grantee shall have moved to another address or shall have assigned its said right of enforcement, notices shall be delivered to the other address or to the new party at its address specified by notice of such move or assignment recorded and noted in the margin of this deed.

- g. If the offer and copy of the purchase and sale agreement have been duly delivered as required by paragraphs a and f hereof, and a period of thirty (30) days has elapsed during which the Grantee has failed to either accept or decline the offer, such inaction shall be deemed a declination and the Grantor shall be entitled to proceed with the sale as contemplated by paragraph d hereof. The recording of an affidavit setting forth the fact or facts of such inaction, shall be conclusive evidence of such inaction. Such affidavit shall be sworn to under pains and penalty of perjury before a Notary Public or Justice of the Peace or other officer authorized to take oaths, and, unless so sworn to, shall have no effect whatsoever.
- h. References herein to sale or transfer shall not be deemed to apply to the statutory power of sale or other sales provisions in mortgages to lending institutions.

IN WITNESS WHEREOF, the City of Waterville, signed by Judy C. Kany, Mayor, its' officer duly authorized and has hereunto set her hand and seal for the purpose set forth above, all as of the day and year first written above.

City of Waterville

By

Judy C. Kany,
Mayor

STATE OF MAINE

Kennebec, ss

Date

7/14/89

Then personally appeared the above named Judy C. Kany,
Mayor, of the City of Waterville, and acknowledged the foregoing instrument to be her free act and deed in said capacity and the free act and deed of the Waterville Opera House, Waterville, Kennebec County, Maine.

Before me,

Albert V. Federhe, Jr.
Notary Public

ALBERT V. FEDERHE, JR.

RECEIVED KENNEBEC SS.

1989 JUL 17 AM 9:00

TEST: Harold R. Mann
REGISTER OF DEEDS

